IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1764 OF 2007

Raghunath R. Gunjal & Ors. ....Petitioners
V/s.
Nashik Road Deolali Vyapari .
Sahakari Bank Ltd. ....Respondents

Mr.Balasaheb Deshmukh for the Petitioners.

CORAM : S.J. VAZIFDAR, J.
DATED : 25TH JULY, 2007.

P.C. :

1. The impugned order warrants no interference. The leaned Judge of the Co-operative Court passed an order in a dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 directing the principle debtor and the Petitioners who are the guarantors to pay a sum of Rs.13,35,855/- with interest and costs.

2. The Petitioners challenged the said order before the Maharashtra Co-operative Appellate Court under Section 96 of the said Act. By the impugned order, the Petitioners' contention that they were not served was rejected after perusing the postal acknowledgement. I am not inclined to interfere with

the finding of fact.

3. It is even more important to note that before the Appellate Court the only grievance of the Petitioners on merits was that the first Respondent Bank was not proceeding against the principle debtor. It is rightly held that the defence is not sustainable and that the guarantors are always at liberty to adopt proceedings against the principle debtor. I am in agreement with the Appellate Court that on such a defence, there is no need to remand the matter even assuming that the Petitioners were not served. As recorded in the impugned order, the Petitioners admit that they are the guarantors and have signed all the loan documents.

4. In the circumstances, the Writ Petition is accordingly dismissed.